

ORIGINAL

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

In the Matter of the License)	Case No. REA-L1A-04-00-006
of:)	
)	
MONTY EGBERT)	STIPULATION AND CONSENT ORDER
License No. LRA 58,)	
)	
Respondent.)	
)	
)	
)	

WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Monty Egbert (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraisers in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent Monty Egbert is a licensee of the Idaho

State Board of Real Estate Appraisers and holds License No. LRA-58 to practice real estate appraisals in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. Pursuant to Idaho Code Section 54-4104(14), Respondent, as a licensed residential real estate appraiser, is restricted to appraising the following:

a. Complex one to four residential units having a transaction value of less than \$250,000, and

b. Noncomplex one to four residential units having a transaction value of less than \$1 million.

4. A "noncomplex" appraisal is defined in Idaho Code Section 54-4104(8) as one in which:

a. The subject property has an active market of essentially identical properties,

b. There is adequate market data available.

c. Adjustments do not exceed the typical range found in the market for essentially identical properties, and

d. In the instance of residential property, the contract sales price would fall within the market norm for homes or lots within the same area.

5. On or about September 16, 1999, Respondent prepared an appraisal for the real property located at 3804 Kinsmen Circle in Idaho Falls, Idaho (hereinafter the "Subject Property #1"). In the appraisal report for Subject Property #1, it is alleged that Respondent:

a. Used comparables which were never exposed to the

open market;

b. Failed to state in his report that his source for comparable data was not entirely valid or supply copies of cost and contracts to validate any of the information provided to the lender;

c. Failed to describe his lack of knowledge of current market sales and state that the comparables used were not actual sales in the open market; and

d. Valued the property at \$759,000.

6. On or about November 15, 1999, Respondent entered into a Consent Order with the Board for practicing beyond the scope of his licensure in Case No. REA-L3-04-99-019. That case involved an appraisal prepared by Respondent for the property located at 7291 South Caulebra Rio Circle in Idaho Falls, Idaho. The issue of "complex" verses "noncomplex" appraisal qualifications was not considered in such Consent Order and was not raised by the Board. As a result of that Consent Order, Respondent was ordered to pay an administrative fine of \$100.00, investigative costs and attorney's fees in the amount of \$275.00, and was placed on probation for a period of six months. One of the conditions of Respondent's probation was to comply with all laws and rules governing the practice of real estate appraisals in the State of Idaho. Respondent's probation was terminated June 26, 2000, after he fulfilled all obligations of the Stipulation and Consent Order.

7. On or about February 18, 2000, Respondent prepared an appraisal for the real property located at 7955 Blackhawk Drive in Idaho Falls, Idaho (Subject Property #2). In the appraisal report

for Subject Property #2, it is alleged that Respondent:

a. Used comparables which were never exposed to the open market;

b. Failed to state in his report that his source for comparable data was not entirely valid or supply copies of cost and contracts to validate any of the information provided to the lender;

c. Failed to describe his lack of knowledge of current market sales and state that the comparables used were not actual sales in the open market; and

d. Valued the property at \$822,500.

8. It is alleged that Respondent's appraisal reports for Subject Property #1 and #2 constitute "complex" appraisals beyond the scope of Respondent's license.

9. The above-stated allegations, if proven, could constitute a violation of the laws and rules governing the practice of real estate appraisals, specifically Idaho Code Sections 54-4104(14), IDAPA 24.18.01.300, and USPAP Ethics Rule and Competency Rule. In addition, the allegations, if proven, concerning the appraisal for the property located at 7955 Blackhawk Drive in Idaho Falls could constitute a violation of Respondent's terms of probation in Case No. REA-L3-04-99-019, which has now terminated. Violations of these laws and rules could further constitute grounds for disciplinary action against Respondent's license to practice real estate appraisals in the State of Idaho.

10. Respondent, in lieu of proceeding with a formal

disciplinary action to adjudicate the allegations as set forth above, hereby agrees to the discipline against his license as set forth in Section C below.

B.

I, Monty Egbert, by affixing my signature hereto, acknowledge that:

1. I have read the allegations pending before the Board, as stated above in Section A. I further understand that these allegations, if proven, could constitute cause for disciplinary action upon my license to practice real estate appraisals in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraisals in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent's license may be suspended for 90 days. The suspension period shall be stayed provided all of the terms of this stipulation are complied with. If the terms outlined in sections C(2), (3), (4), 5(a), and 5(b) below are violated, the term of suspension shall be immediately imposed.

2. Respondent shall pay to the Board an administrative fine in the amount of Five Hundred and No/100 Dollars (\$500.00) within thirty (30) days of the entry of the Board's Order.

3. Respondent shall pay investigative costs and attorney fees in the amount of Three Hundred and No/100 Dollars (\$300.00) within Sixty (60) days of the entry of the Board's Order.

4. Respondent has attended fifteen (15) hours of continuing education in residential case studies focusing on the difference between complex and noncomplex appraisals and has taken and passed the examination given at the conclusion of the course.

Respondent has submitted proof of attendance and proof that he passed the examination. Said 15 hours of continuing education shall apply to any continuing education Respondent is required to obtain to maintain his license, and shall apply towards application for a higher level of licensure now pending before the Board.

5. Respondent's License No. LRA-58 shall be placed on probation for a period of not more than one (1) year from the date of entry of the Board's Order or until Respondent is licensed as a Certified Residential Appraiser, whichever is first. The conditions of probation are as follows:

a. Respondent shall not prepare any appraisal which

W ~~is outside of the scope of his licensure. Respondent shall obtain~~
~~active and personal supervision from Curtis Boam, C.G.A., who has been approved by the~~
~~whether an appraisal is within the scope of his licensure,~~
~~Board, or any other Board approved Certified General or Certified Residential Appraiser~~
~~Respondent shall immediately contact a Board member for~~
~~not subject to disciplinary action, to provide supervision on appraisals of residential~~
~~assistance.~~
~~real properties equal to or greater than \$250,000 in value. The supervising appraiser shall~~
~~review and sign the appraisal report.~~
b. The Board reserves the right to audit Respondent's

appraisal files upon request. Respondent shall prepare and submit logs of the appraisals performed on a monthly basis. The appraisal logs shall be forwarded to the Bureau of Occupation Licenses, 1109 Main Street, Suite 220, Boise, Idaho 83702, by the last day of each month. The appropriate form to use is attached hereto as Exhibit A.

c. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraisals in the State of Idaho.

d. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

e. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

f. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information

STIPULATION AND CONSENT ORDER -7

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f. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information

within a reasonable time after a request is made for such documents or information.

g. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

5. At the conclusion of the probationary period, Respondent may request from the Board removal of the probationary restrictions. The Board shall remove the restrictions placed on Respondent's license provided all of the terms of this stipulation have been met.

6. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

7. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board on July 24, 2001. It is agreed that Respondent's application for Certified Residential Real Estate Appraiser shall be submitted to the Board and considered in conjunction with this Stipulation.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this

Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board based solely upon the Board's review of this Stipulation. However, in the event of a hearing, Respondent retains disqualification rights under Idaho Code Section 67-5252.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in this Stipulation will not be considered as evidence against Respondent at any subsequent disciplinary hearing, and this Stipulation shall not be admissible.

4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code Section 54-4107(1)(d). If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of Bureau of Occupational Licenses may schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be

deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the alleged violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials. Respondent does not waive his rights to appeal the final determination of the Board.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

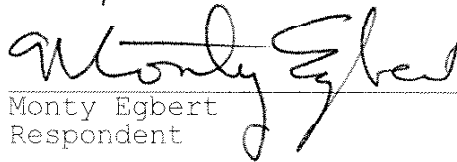
7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, Idaho Code Section 9-337-50.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I

understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 10 day of July, 2001.


Monty Egbert
Respondent

Approved as to form.

DATED this 10 day of July, 2001.


FULLER & CARR

By: 
Mark R. Fuller
Of Attorneys for Respondent

I concur in this stipulation and order.

DATED this 16 day of July, 2001.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

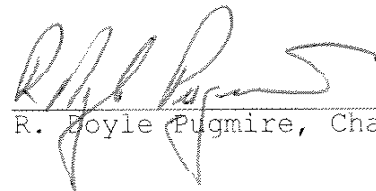
By: 
Kirsten L. Wallace
Deputy Attorney General

ORDER

Pursuant to Idaho Code Section 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 24 day of July, 2001. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By:


R. Boyle Pugmire, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July, 2001, I caused to be served a true and correct copy of the foregoing by the following method to:

Mark R. Fuller
FULLER & CARR
410 Memorial Drive, Suite 201
P.O. Box 50935
Idaho Falls, ID 834-5-0935

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: (208) 524-7167
- ☐ Statehouse Mail

Kirsten L. Wallace
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: (208) 334-2830
- ☒ Statehouse Mail


Budd Hetrick

INSTRUCTIONS FOR APPRAISAL EXPERIENCE LOG

PLEASE READ CAREFULLY BEFORE COMPLETING THE APPRAISAL EXPERIENCE LOG

The Idaho Real Estate Appraiser Board will not process incomplete or improperly completed forms; they will be returned to you for further processing on your part. Complete all parts of the form, including, "Name", "License/SS No.", "Total Hours This Page", and "Page ___ of ___ Pages." Type or print clearly using ink. Unless otherwise instructed, indicate your choice by placing an "X" in the appropriate box.

NOTE: ALL APPRAISALS LOGGED ON A SINGLE PAGE MUST BE FOR THE SAME YEAR. DO NOT COMBINE YEARS ON ONE PAGE.

1. Date: Insert the date shown on the appraisal report.
2. PROPERTY IDENTIFICATION: A street address with city, state, and zip code is preferred. A commercial property may be identified by name if you appraised the entire project, for example; Lakeside Mall, Boise, etc. Otherwise, provide a description that will allow positive identification of the property. For platted properties, a legal description such as Lot 7, Block G, Hyde Park #8, Travis County, would be sufficient. See the Example Appraisal Experience Log for other examples of property identification. Do not give a metes and bounds description.
3. PROPERTY TYPE:
 - A. Residential Properties: are defined as improved properties having four or fewer living units, or unimproved property suitable for 1 to 4 living units. When claiming a residential property, place a 1, 2, 3, or 4 in the "Res." Column to indicate the number of living units in the improved residential property appraised, or a "UR" to indicate an unimproved residential lot.
 - B. Non-Residential Properties: are all other properties not defined by the Residential Property definition given above. When claiming a Non-Residential Property, indicate the type of property by placing one of the property codes from the Table 1 in the "Non Res." Column.

Table I: Property Code

Other living units such as apartments, condominiums, etc.	A
Commercial	C
Industrial	I
Office	O
Farm or Ranch	FR
Unimproved acreage (not Farm or Ranch)	UA
All other property types not listed here	NL

4. COMPLEXITY:

A Complex Appraisal: was one that relied to a significant degree on all three approaches to value (cost, income, and sales comparison); or, was an appraisal that did not have the characteristics of a non-complex appraisal as defined below.

A Non-Complex Appraisal was one having all of the following characteristics:

- a. There was an active market of essentially identical properties (the same type or nearly the same type), and
- b. Adequate data was available to the appraiser, and
- c. Adjustments did not exceed the typical range found in the market of essentially identical properties, and
- d. For residential properties, the contract sales price fell within the market norm (median sales price) for homes or lots within the same area.

5. APPROACH (ES) USED: Indicate only those which were used to a significant degree in arriving at a value for the property. For example, if you performed a detailed income analysis to arrive at a value for the property based upon its actual or potential income, used that value in estimating the overall worth of the property, and thoroughly incorporated that data into your report, then you are eligible for an income approach credit.

6. INVOLVEMENT: Indicate whether your involvement was as the appraiser, as a field reviewer, or as a desk reviewer of the appraisal report. **Each co-author is entitled to full credit for a co-authored report.**

To claim a desk review credit, you must have thoroughly and critically reviewed all portions of the appraisal document. However, a physical inspection of the property is not required.

To claim a field review credit, you must have performed a desk review. In addition, you must have visited the site and performed a thorough and critical inspection of the property and all comparable data, including all data not otherwise contained in the report. All review experience credits must comply with USPAP Standard #3 for a technical review.

Remember, your signature on a field review or a desk review is a declaration of your competency, reputation, integrity, professional standing, and legal responsibility. You may not share credit or responsibility for someone else's work unless you have thoroughly and critically verified that work.

7. **SIGNERS:** Enter the number of individuals who signed the appraisal for which credit is being claimed. It will be necessary for the supervisory appraiser to complete an experience verification affidavit attesting to the validity of the claimed appraisal.
8. **HOURS:** Calculate and enter the experience hours for which you are claiming credit. Show the total for each page in the space provided at the bottom of the column. If more than three signatures, points must be evenly divided among the signors.

EXPERIENCE HOURS

For Licensed Residential Licensure: To qualify for Residential Licensure, you must show evidence of at least two thousand (2,000) hours. You may not claim more than one thousand (1,000) hours in any single calendar year. Only hours earned from residential properties may be applied toward Residential Licensure. Use Table II as a guide for estimating Licensed Residential Experience Hours, an explanation should accompany any substantial deviation.

For Certified Residential Certification: To qualify for Certified Residential Certification, you must show evidence of accumulating a minimum of two thousand five hundred (2,500) hours of real estate appraisal experience in not less than thirty (30) months. You may not claim more than one thousand (1,000) hours in any single calendar year. Two thousand (2,000) hours of the experience shall be from residential field appraisal experience. The balance of five hundred (500) hours may include nonfield experience. Use Table II as a guide for estimating Certified Residential Experience Hours, an explanation should accompany any substantial deviation.

For Certified General Certification: To qualify for Certified General Certification, you must show evidence of at least three thousand (3,000) hours of appraisal experience in not less than thirty-six (36) months. You may not claim more than one thousand (1,000) hours in any single calendar year. Two thousand (2,000) hours of the experience must be nonresidential field appraisal experience. The balance of one thousand (1,000) hours may be solely residential experience or can include up to five hundred (500) hours of nonfield experience. Use Table II as a guide for estimating Certified General Experience Hours.

Table II: Experience Hours

Non-residential, complex, appraisal	30
Non-residential, complex, field review	12
Non-residential, complex, desk review	8
Non-residential, non-complex, appraisal	15
Non-residential, non-complex, field review	8
Non-residential, non-complex, desk review	4
Residential, complex, appraisal	8
Residential, complex, field review	4
Residential, complex, desk review	2
Residential, non-complex, appraisal	4
Residential, non-complex, field review	3
Residential, non-complex, desk review	1

Applicants should submit their appraisal experience on photocopies of the Appraisal Experience Log supplied with this packet. Keep the original appraisal Experience Log form for making additional copies.

Each appraisal log must be signed and verified by a supervising appraiser. More than one experience log and verification may be necessary to properly report the claimed experience credits.

ALL INFORMATION SUBMITTED FOR EXPERIENCE CREDIT IS SUBJECT TO VERIFICATION BY THE BOARD. YOU MAY BE QUESTIONED OR REQUIRED TO SUBMIT PROOF OF ALL EXPERIENCE CLAIMED.

